



California Energy Commission Research & Development

Electric Program Investment Charge 2018 – 2020 Triennial Investment Plan

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Clarification on Intellectual Property



Intellectual Property

Public Resources Code § 25711.5 provides directives for the treatment of intellectual property (IP) generated by CEC awards.

- Requires the CEC to establish IP terms that balance the potential benefit to the state from those terms and the effect those terms may have on the state achieving its energy goals.

The Commission incorporated the Legislature's directives to CEC into the EPIC program in D.13-11-025.

- The Commission recognizes that the CEC has the discretion to grant licenses to load-serving entities (LSE).
- The Commission did not order the CEC to require that grantees give licenses to the State; that requirement is meant for IOUs only.
- Instead, the Commission states that the CEC will establish IP terms in accordance with PRC 25711.5.



Intellectual Property

CEC's IP terms require the grantee to provide the CEC and the Commission a license to IP developed under the agreement.

CEC held a workshop in September 2016 to solicit input from stakeholders on how to increase participation in EPIC from the private sector.

- IP rights were consistently cited as a concern by stakeholders.
- Private companies are dissuaded from applying for or accepting EPIC funds because of the potential for granting LSEs unlimited rights to all IP developed under EPIC.
- Lack of clarification would have a negative impact to the efforts to achieve state energy goals.



Intellectual Property

CEC seeks to clarify its IP terms

- The intent is to potentially grant LSEs with a license **only** for models and analytical tools that can inform grid planning and decision making that benefit EPIC ratepayers.

Example:

- EPIC Project *Validated and Transparent Energy Storage Valuation and Optimization Tool*

Clarification is consistent with Commission decision.

- "Consistent with state law and our decision concerning the fair licensing of intellectual property (IP) to load-serving entities (LSEs) or other utility competitors serving ratepayers, to the extent the grantees proprietary and competitive interests are appropriately and adequately protected, the licensing of IP must be done on fair, reasonable, and non-discriminatory terms..." (Ordering Paragraph 50 of D.13-11-025)

Clarification does not change existing royalty terms.



Clarification on Inflation Adjustment



Inflation Adjustment

CPUC Decision 12-05-037, Ordering Paragraph 7 states, "The total collection amount shall be adjusted on January 1, 2015 and January 1, 2018 commensurate with the average change in the Consumer Price Index, specifically the Consumer Price Index for Urban Wage Earners and Clerical Workers for the third quarter, for the previous three years."

The CEC and IOUs proposed different escalation rates in their Investment Plan applications and clarification is requested on which rate to use.



Inflation Adjustment

CEC and the IOUs estimated escalation for the 2018-2020 Investment Plan using similar approaches.

There are a couple key differences in how the CEC and IOUs estimated escalation.

IOU Approach:

- Used a national CPI for Urban Wage Earners and Clerical Workers (CPI-W) from the Social Security Administration to estimate escalation.
- Used the CPI-W change from the previous three years (2014 – 2016) to estimate an annual growth rate for 2018 – 2020.
- Annual growth rate was calculated to be 0.684%, or an average annual inflation rate of 2.065% over the 3-year period.

CEC Approach:

- Used California Department of Finance inflation projections for CPI-W.
- Annual growth rate was calculated to be 2.871%, or a 3-year growth rate of 8.862%



Inflation Adjustment

Advantages of CEC Escalation Approach:

- Uses an index specific to California, prepared by DOF for state budgeting
- Uses more accurate and sophisticated economic modeling to forecast inflation for the investment period.
 - IOU approach takes a simple 3-year historical average and forecasts out.
 - IOU average includes outlier deflation year of 2015 (gasoline price plummeted).